

REMARKS

Claims 14, 15, and 23 are presently canceled. Claims 1-9 and 25-35 were previously canceled. Thus, claims 10-13, 16-22, and 24 are presented for the Examiner's consideration.

Claims 10, 16, and 22 have been amended to further require that the absorbent core includes a body side absorbent layer and a garment side absorbent layer wherein the body side absorbent layer comprises open cell foam and the garment side absorbent layer comprises elastic coform. Support for this amendment can be found throughout the specification, including at page 9, line 20 through page 10, line 12.

Pursuant to 37 C.F.R. 1.114, reconsideration of this application is respectfully requested in view of the foregoing amendments and remarks and the following response.

ARGUMENTS

By way of the Office Action mailed September 27, 2007, claims 10 – 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent number 4,886,513 to Mason, Jr. et al. in view of U.S. patent number 6,015,934A to Lee et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. The application of the “teaching, suggestion, or motivation” (TSM) test is not “rigid.” However, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) (emphasis added).

Applicants’ currently amended claim 10 requires, *inter alia*, that the absorbent core includes a body side absorbent layer and a garment side absorbent layer wherein the body side absorbent layer comprises open cell foam and the garment side absorbent layer comprises elastic coform. No *prima facie* case of obviousness has been established showing that Mason and Lee, alone or in combination, teach or suggest an absorbent core having a body side absorbent layer of open cell foam and a garment side absorbent layer of elastic coform.

Thus, Applicants respectfully request that this rejection be withdrawn in view of the claims as amended.

By way of the Office Action mailed September 27, 2007, claims 10 – 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent application number 2003/0114805A1 to Rainville-Lonn et al. in view of U.S. patent number 6,015,934A to Lee et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

As noted above, Applicants' currently amended claim 10 requires, *inter alia*, that the absorbent core includes a body side absorbent layer and a garment side absorbent layer wherein the body side absorbent layer comprises open cell foam and the garment side absorbent layer comprises elastic coform. No *prima facie* case of obviousness has been established showing that Rainville-Lonn and Lee, alone or in combination, teach or suggest an absorbent core having a body side absorbent layer of open cell foam and a garment side absorbent layer of elastic coform.

Rainville-Lonn appears to teach a low-density foam as the resilient core 14. However, in Rainville-Lonn, the outer plastified layer 16 is impermeable and the resilient core 14 is isolated from liquids. Thus, the resilient core 14 of Rainville-Lonn is not a body side absorbent layer of open cell foam.

Additionally, no *prima facie* case of obviousness has been established showing that Rainville-Lonn and Lee, alone or in combination, teach or suggest using a body side absorbent layer of open cell foam as part of an absorbent core that also includes a garment side absorbent layer of elastic coform as required by the claims as amended. Thus, the combination of Rainville-Lonn and Lee does not teach all the claim limitations of the claims as currently amended.

For at least these reasons, Applicants respectfully request that this rejection of claims 10-13 be withdrawn.

By way of the Office Action mailed September 27, 2007, claims 14 and 16 – 21 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent application number 2003/0114805A1 to Rainville-Lonn et al. and U.S. patent number

6,015,934A to Lee et al. as applied to claims 10-13 above and further in view of U.S. patent number 4,886,513 to Mason, Jr. et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

As discussed above, no *prima facie* case of obviousness has been established showing that Rainville-Lonn and Lee, alone or in combination, teach or suggest using open cell foam as part of an absorbent core that also includes a garment side absorbent layer of elastic coform as required by the claims as amended. Mason was added for its teaching of "superabsorbent", not to cure the defect of Rainville-Lonn and Lee. For at least this reason, Applicants respectfully request that this rejection of claims 16-21 be withdrawn.

By way of the Office Action mailed September 27, 2007, claims 15 and 22 – 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent application number 2003/0114805A1 to Rainville-Lonn et al. and U.S. patent number 6,015,934A to Lee et al. and U.S. patent number 4,886,513 to Mason, Jr. et al. as applied to claims 14 and 16-21 and further in view of U.S. patent number 6,429,350B1 to Tanzer et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

As discussed above, Applicants' currently amended claims require, *inter alia*, that the absorbent core includes a body side absorbent layer and a garment side absorbent layer wherein the body side absorbent layer comprises open cell foam and the garment side absorbent layer comprises elastic coform. Also, as discussed above, no *prima facie* case has been established showing that the combination of Rainville-Lonn, Lee, and Mason, alone or in combination, teach or suggest all the claim limitations of the claims as currently amended.

Tanzer has been added for its teaching of an absorbent containing an open cell foam layer over a superabsorbent layer. However, Tanzer teaches away from an absorbent core having multiple absorbent layers as currently claimed. To wit, Tanzer emphasizes the benefit of "eliminating the need for a separate absorbent layer between the surge layer and the outer cover." (abstract). Additionally, there is no *prima facie* case establishing that Tanzer teaches

an open cell foam absorbent layer in conjunction with an elastic coform absorbent layer as required by the claims as currently amended.

Applicants respectfully request that the rejection of these claims be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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